

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**FRED BECK, Individually and on behalf of
the Estate of EASTER BECK, Deceased; et al.,**

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:03CV60-P-D

**KOPPERS, INC., f/k/a KOPPERS INDUSTRIES, INC.;
et al.,**

DEFENDANTS.

CONSOLIDATED WITH

HOPE ELLIS, et al.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:04CV160-P-D

**KOPPERS, INC., f/k/a KOPPERS INDUSTRIES, INC.;
et al.,**

DEFENDANTS.

ORDER

This matter comes before the court upon Defendants Koppers, Inc. and Beazer East, Inc.'s Motion to Strike Affidavit of Glenn W. Johnson [358-1]. Upon due consideration of the motion and the response filed thereto, the court finds as follows, to-wit:

The motion is not well-taken and should be denied. The subject affidavit affects the claims of Alice Hill, Patricia McNeal, and Walter Hobbs *vis-a-vis* their pending Motion for Preliminary Injunction. The expert report deadline had not yet run regarding the claims of the aforesaid plaintiffs when they filed their motion for preliminary injunction. Rather, the expert report deadline had only expired with regard to the claims of Kenesha Barnes, whose claims are scheduled for trial first among twelve separate trials per the court's prior order. Because the affidavit of Dr. Johnson does not appear to affect the claims of Kenesha Barnes, the instant motion to strike is should be denied.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant Koppers, Inc. and Beazer East, Inc.'s Motion to Strike Affidavit of Glenn W. Johnson [358-1] is hereby **DENIED**.

SO ORDERED this the 13th day of September, A.D., 2005.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE